

REMARKS

In the Office Action, the Examiner rejected claims 1, 3-9, 11-15, and 70-79. Claims 16-27, 29-33, and 80-85 are currently withdrawn. As discussed below, Applicants respectfully request reconsideration and allowance of all pending claims.

Removal of Hallman Reference

In the Office Action, the Examiner relied on Hallman et al. (U.S. Patent Application Publication No. 2003/0196277A1, hereinafter “the Hallman reference”) in all prior art rejections of the pending claims. However, the Hallman reference does not qualify as prior art under 35 U.S.C. § 102(e). By this paper, Applicants hereby submit the enclosed declaration of inventors of record, Vanita Mani and Darren L. Hallman, pursuant to 37 C.F.R. § 1.132 (hereinafter “Rule 132 Declaration”) to evidence that the relied upon subject matter of the Hallman reference was not invented “by another” and thus cannot qualify as prior art under 35 U.S.C. §§ 102(e) and 103.

Specifically, with reference to paragraph 4 of the enclosed declaration, the inventors declare that the subject matter disclosed in the former application and, also, disclosed and claimed in the present application (hereinafter, “common subject matter”) was conceived or invented by them, i.e., Vanita Mani and Darren L. Hallman. As a result, the common subject matter disclosed in the former application is not an invention “by another.” Any common subject matter that may be claimed in the present application is due to the contribution of Vanita Mani and Darren L. Hallman as inventors in both the former and present applications.

Accordingly, in view of this Rule 132 Declaration, the Applicants respectfully request withdrawal of the Hallman reference and allowance of all pending claims.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1, 3-9, 11, 14, and 70-74 under 35 U.S.C. § 102(e) as being anticipated by the Hallman reference. Applicants respectfully traverse this rejection. However, as discussed above, the Hallman reference does not qualify as prior art under 35 U.S.C. § 102(e) as the relied upon subject matter was not invented “by another” as required by Section 102(e). For at least this reason, among others, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102.

Claim Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 12, 13, 15, and 75-79 under 35 U.S.C. § 103(a) as being unpatentable over the Hallman reference. Applicants respectfully traverse this rejection. However, as discussed above, the Hallman reference does not qualify as prior art under 35 U.S.C. §§ 102(e) and 103 as the relied upon subject matter was not invented “by another” as required by Section 102(e). Furthermore, the Applicants respectfully stress that Hallman (U.S. Patent Application Publication No. 2003/0196277A1) should be removed from consideration in accordance with 35 U.S.C. § 103(c) and M.P.E.P. § 706.02(I), because the present application and Hallman were, at the time the invention was made, owned by, or subject to an obligation of assignment to, General Electric Company. Accordingly, the Applicants respectfully request the Examiner remove the Hallman reference from consideration. After the Hallman reference is removed according to 35 U.S.C. § 103(c) and/or in view of the enclosed Rule 132 Declaration, the Examiner’s rejections based on the Hallman reference are moot. For at least these reasons, among others, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103.

Conclusion

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to

clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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